

BOARD OF APPEALS CASE NO. 4841	*	BEFORE THE
APPLICANT: Coleman Plecker's Golf World LLC	*	ZONING HEARING EXAMINER
REQUEST: Variance to disturb non-tidal wetlands and Natural Resource District buffer in the CI District; 1410 Mountain Road, Joppa	*	OF HARFORD COUNTY
	*	Hearing Advertised
	*	Aegis: 9/23/98 & 9/30/98
HEARING DATE: November 4, 1998	*	Record: 9/25/98 & 10/2/98

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Coleman Plecker's Golf World LLC, appeared before the Hearing Examiner requesting a variance pursuant to Section 267-41(D)(6) of the Harford County Code, to disturb non-tidal wetlands and the 75 foot non-tidal wetlands buffer required by Section 267-41(D)(5)(e), as shown on the site plan filed with the application.

The subject property is located at 1410 Mountain Road in the First Election District and is identified as Parcel Nos. 31 and 917 (Lots 6, 7 and 8), in Grid 1-B on Tax Map 65. The subject property contains 21.55 acres, more or less, and is zoned CI, Commercial Industrial.

Mr. Coleman Plecker, one of the members of Coleman Plecker's Golf World, LLC, testified. The witness stated that the Applicant is a limited liability company which is developing the subject property for a miniature golf course, driving range and golf practice facility. All requirements of the Code which relate to the facility are met with the exception of the requested variance. Mr. Plecker explained that due to their location on the subject property, it was not possible to build the facility without disturbing the wetlands as requested. He indicated that based on his discussions with his environmental consultant, granting the variance will not cause any harm of any kind. He concluded his testimony by stating that the conditions of approval recommended in the Staff Report were acceptable.

Case No. 4841 - Coleman Plecker's Golf World LLC

Douglas Kopeck, an expert environmental consultant and landscape architect, next testified for the Applicant. Mr. Kopeck testified that he had conducted an environmental assessment and analysis in this case to evaluate the existing wetlands on site and determine the impact caused by granting the requested variance. Mr. Kopeck stated that the existing wetlands had been degraded and had only a moderate quality. He explained that given their location, it was not possible to further limit impacts to the wetlands and still build the facility. He stated that reforestation and other mitigation methods would be implemented to reduce impacts as set forth in more detail in his written report (Applicant's Exhibit 8). He concluded his testimony by stating that granting the requested variance would not impair the purpose of the Natural Resource District.

Anthony S. McClune, Chief of Current Planning for the Department of Planning and Zoning, summarized the Staff Report which recommended conditional approval. He stated that a portion of the wetlands on site are small isolated areas. Other wetlands have been degraded by past logging operations. He noted that the wetlands have a moderate function and value. Finally, he indicated that the Applicant's proposed mitigation plan will increase the overall effectiveness and function of the wetland system.

No protestants appeared in opposition to the Applicant's request.

CONCLUSION:

The Applicant is requesting a variance pursuant to Section 267-41(D)(6) of the Code to disturb non-tidal wetlands and the 75 foot non-tidal wetlands buffer required by Section 267-41(D)(5)(e) of the Code.

Section 267-41(D)(5) of the Code provides:

"Nontidal wetland shall not be disturbed by development. A buffer of at least seventy-five (75) feet shall be maintained in areas adjacent to wetlands."

Section 267-41(D)(6) of the Code provides:

"Variances. The Board may grant a variance to Subsection D(3), (4) or (5) of the Natural Resources District regulations upon a finding by the Board that the proposed development will not adversely affect the Natural Resources District."

Case No. 4841 - Coleman Plecker's Golf World LLC

Based on the testimony presented, the Applicant's exhibits and the Staff Report, the Hearing Examiner finds that the request to disturb the non-tidal wetland and seventy-five (75) foot buffer would not adversely affect the Natural Resources District or the surrounding natural resources. The existing wetlands have only moderate function and value. The Applicant proposes a series of small wetlands that will provide water quality, habitat and sediment stabilization for the facility which will increase the overall effectiveness of and function of the wetland system. Given their location, the Applicant cannot further reduce impacts to the wetlands and still build the facility.

Therefore, it is the recommendation of the Hearing Examiner that the variance to disturb the Natural Resources District be approved subject to the following conditions:

1. A revised site plan and Forest Conservation Plan (FCP) shall be submitted to the Department of Planning and Zoning for review and approval.
2. Landscaping shall be required along the steep graded bank between the proposed wetland mitigation area and the miniature golf course. A detailed planting plan shall be submitted to the Department of Planning and Zoning for review and approval.
3. A lighting plan shall be submitted to the Department of Planning and Zoning for review and approval. All on-site lighting shall be directed on-site, away from any surrounding residential uses and roads.
4. Wetland mitigation shall be completed in accordance with the wetland mitigation plan submitted by the Applicant. Any changes to the mitigation plan must be approved by the Department of Planning and Zoning.

Date NOVEMBER 18, 1998

L.A. Hinderhofer
Zoning Hearing Examiner